

2005 ENVIRONMENTAL NEGOTIATIONS COMPETITION
CONFIDENTIAL INSTRUCTIONS FOR STOP

ROUND 2 (You are the attorney representing Sullivan/STOP in negotiations)

Sullivan and STOP recognize that this is their best chance for a good resolution of the case. The DA's insistence that Sullivan and STOP be participants in the deal has greatly increased their leverage in the negotiations with Gregory. The DA has made it clear to Sullivan, however, that she will limit STOP's participation in the B&P 17200 case if they walk away from a reasonable deal. Because the DA has substantial authority to control how the B&P 17200 case is litigated, Sullivan is motivated to get a deal now. Sullivan is also motivated by his caustic relationship with Gregory. Your job as an attorney is to represent Sullivan's views, but also to try to limit the role of personalities in the resolution of the case.

1. Inventory and Mapping

The GIS maps are important for future compliance, and Sullivan knows that the DA concurs in that assessment. Mapping and inventory will make it much more difficult for Gregory to take unilateral action on the mountain. GIS mapping is expensive, and the whole process will cost \$2 to 3 million. Sullivan wants:

- a) STOP to decide on the mapping firm, not Gregory.
- b) full public access to the information generated by the mapping, including specialized computer terminals.
- c) no limit on funding to complete the project.

You can ultimately agree to limit Gregory's costs to \$2 million, as long as that is not a limit on the cost of the mapping and the amount can be supplemented by Sullivan, outside grants, or other sources to carry out the mapping. You can agree to a process in which Gregory has some say in the hiring of the mapping firm. You can agree to allow the information to be controlled by the county, as the county will have to share it with the public.

2. Attorney's Fees

Sullivan and STOP have a good argument for fee recovery under the anti-SLAPP statute, but your fees for that case are only \$40,000. Fees in the B&P 17200 case are approaching \$1 million because of all of the motions filed and discovery disputes. Sullivan really wants to get some fees from Gregory, just out of spite. He will take anything over \$100,000, but you should try very hard to get much more.

3. Monitoring and Enforcement

Sullivan wants to have a STOP member's time paid by Gregory to monitor on site at Mujera Blanca. He knows that this is extremely unlikely. He would like the ability to have a STOP member accompany the county on inspections. This is a long shot as well, so his fall-back position is to receive a copy of all submissions by Mujera Blanca to the County, and to be able to raise objections to any liquidated penalty determinations made by the County. Get as much as you can here.

Gregory will make the opening proposal.